

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JESSE L. GARCIA,

Plaintiff,

vs.

Civ. No. 19-1138 JCH/JFR

JOSE G. ANDRADE-BARRAZA, *et al.*,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court on the Proposed Findings and Recommended Disposition by United States Magistrate Judge John F. Robbenhaar, filed June 15, 2021. (Doc. 30.) Objections were due June 29, 2021, with three days for mailing that permitted a deadline for Plaintiff of July 2, 2021. The parties have not filed any objections. The failure to make timely objections to the Magistrate Judge's Proposed Findings and Recommended Disposition waives appellate review of both factual and legal questions. *U.S. v. One Parcel of Real Property*, 73 F.3d 1057, 1059 (10th Cir. 1996).

IT IS THEREFORE ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 30) is adopted as follows:

1. Defendants' Motion for Summary Judgment (Doc. 21)¹ is **GRANTED**. Plaintiff's claims are dismissed with prejudice.
2. Plaintiff's Motion for Summary Judgment (Doc. 22) is **DENIED as MOOT**.

¹ Defendants asked the Court to construe the *Martinez* Report as a Motion for Summary Judgment (Doc. 21 at 1), consistent with the Court's prior order regarding the same (Doc. 13 at 2 [The Court may use the *Martinez* report in a variety of procedural situations, including when deciding whether to grant summary judgment. *Hall v. Bellman*, 935 F.2d 1106, 1109-13 (10th Cir. 1991)]). The Court, therefore, accepted and disposed of the *Martinez* Report as a Motion for Summary Judgment, as accordingly briefed by the parties.

3. Plaintiff's Motion for Leave to Request Documents and for Extension of Time (Doc. 26) is **DENIED as MOOT**.

IT IS SO ORDERED.



SENIOR UNITED STATES DISTRICT JUDGE